

CHAPTER 95 DIRECT SELLERS

Table

95-1	Direct Sellers
95-2	Transient Merchants
95-14	Home Improvement Contractor and Salesperson Licenses
95-15	Door-to-door Solicitation

95-1. Direct Sellers. 1. LICENSE REQUIRED.

No direct seller may engage in direct sales on any public way or other public premises in this city without having obtained a license under this section.

a. Stands, tables, containers or stationary apparatuses other than pushcarts may not be used to sell goods on the public way or other public premises in the central business districts as established under the zoning code.

b. If goods are to be sold from a pushcart, stand, table, container or other stationary apparatus to be located on the public way or other public premises, the direct seller must also obtain a special privilege permit granted by common council resolution pursuant to s. 245-12. A special privilege permit related to sale of goods from a pushcart by a direct seller need be renewed annually only if the pushcart size and description submitted for annual renewal of the direct seller's permit has changed.

2. DEFINITIONS. In this section:

a. "Charitable organization" means any benevolent, philanthropic, or patriotic organization, or one purporting to be such.

b. "Clerk" means the city clerk.

c. "Direct seller" means any person who sells goods or takes sales orders for the later delivery of goods on any public way or other public premises, and includes peddlers and solicitors. "Direct seller" does not include a transient merchant or permanent merchant conducting a temporary sidewalk sale. "Direct seller" does not include a food peddler, who is regulated under ch. 74.

d. "Goods" means personal property of any kind and includes goods provided incidental to services offered or sold.

e. "Other public premises" means any premises controlled by the city, county or state or any board or other instrumentality or agency thereof and dedicated for use by the public generally and includes public buildings and premises appurtenant thereto.

f. "Permanent merchant" means a direct seller who, for at least one year prior to the consideration of the application of this section to the merchant, has continuously operated an established place of business in this city, or has continuously resided in this city and now does business from his or her residence.

g. "Person" means a natural person.

h. "Public way" means any public thoroughfare dedicated, condemned, acquired or created in accordance with the statutes for street, alley or pedestrian-way purposes.

i. "Pushcart" means any apparatus on wheels whose primary manufacture, design and purpose is for vending.

j. "Street festival" means any celebration taking place on any public way or other public premises, exclusive of parades, processions, bicycle or foot races, and permitted by the city as a special event.

k. "Transient merchant" means any person who engages in the business of purchasing or selling of merchandise at any fixed place in the city temporarily who does not intend to become and does not become a permanent merchant.

2.5. SALES FROM MEDIAN OR SAFETY ISLAND PROHIBITED. No direct seller shall sell or offer for sale any item while the person is on a roadway median or safety island, except when the roadway has been legally closed to traffic for a parade, festival or other civic or special event and the seller is otherwise in compliance with this section.

3. EXEMPTIONS. The following shall be exempt from all provisions of this section except sub. 2.5:

a. Any person delivering newspapers, fuel, dairy products or bakery goods to regular customers on established routes.

95-1-3.5 Direct Sellers

b. Any person selling goods at wholesale to dealers in such goods.

c. Any person selling agricultural products which such person has grown.

d. Any permanent merchant or employee thereof who takes orders away from the established place of business for goods regularly offered for sale by such merchants within this county and who delivers such goods in their regular course of business.

e. Any person selling or offering for sale a service unconnected with the sale or offering for sale of goods.

f. Any person holding a sale required by statute, or by order of any court, and any person conducting a bona fide auction sale pursuant to law.

g. Any person who claims to be a permanent merchant, but against whom complaint has been made to the clerk that such person is a transient merchant; provided that there is submitted to the clerk proof that such person has leased for at least one year, or purchased the premises from which he is conducting business, or proof that such person has conducted such business in this city for at least one year prior to the date the complaint was made.

h. A food peddler licensed under ch. 74.

i. A home improvements salesman licensed under s. 95-14-3.

j. Any person engaged in political or fund raising activities for a campaign committee or political organization duly registered with a federal, state, county or city election board.

k. Any person who sells goods or takes orders for the later delivery of goods, including peddlers and solicitors, within the barricaded area of any city-permitted street festival, provided the person is registered and operating with the permission of the respective festival organization.

L. Any person reselling tickets to entertainment or sporting events at or below face value.

3.5. CHARITABLE ORGANIZATIONS; PARTIAL EXEMPTIONS.

a. An employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization shall

be subject to the provisions of sub. 9-a, b and d and sub. 12 and shall be exempt from all other provisions of this section, provided that all of the following requirements are met:

a-1. There is submitted to the clerk proof that such charitable organization is registered under s. 440.42, Wis. Stats., or proof that such charitable organization is exempt from registration as a charitable organization under said statute.

a-2. The direct sales are performed by persons who are unpaid for their services and who remit all proceeds from sales to the organization to be used for the purposes of the organization.

b. Any employee, officer or agent of a charitable organization who engages in direct sales for or on behalf of said organization and who does not meet all the requirements in par. a shall be subject to all provisions of this section in the same manner as any other direct seller.

4. APPLICATION. a. To be Filed. After a special privilege permit has been granted, where required, by common council resolution pursuant to s. 245-12, applicants for license must complete and return to the clerk an application form furnished by the clerk which shall require the following information:

a-1. Name, permanent address and telephone number, and temporary address, if any.

a-2. Age, height, weight, color of hair and eyes.

a-3. Name, address and telephone number of the person, firm, association or corporation that the direct seller represents or is employed by, or whose merchandise is being sold.

a-4. Temporary address and telephone number from which business will be conducted, if any.

a-5. Nature of business to be conducted, a brief description of the goods offered, and any services offered.

a-6. Size and description of the pushcart, stand, table, container or other stationary apparatus from which items will be sold. A photograph or accurate graphic representation shall be included for pushcarts.

a-7. Proof that the applicant holds a current state seller's permit, which includes a state sales tax number.

a-8. Proposed method of delivery of goods, if applicable.

a-9. Make, model and license number of any vehicle to be used by applicant in the conduct of his business.

a-10. Last cities, villages, towns, not to exceed 3 places, where applicant conducted similar business.

a-11. Place where applicant can be contacted for at least 7 days after leaving this city.

a-12. Statement as to whether applicant has been convicted of any crime or ordinance violation, other than traffic offenses within the last 5 years, the circumstances of which substantially relate to the activity for which a license is sought; the nature of the offense, and the place of conviction.

b. Identification. Applicants shall present to the clerk for examination a driver's license or some other proof of identity as may be reasonably required.

c. Photos. Applicant shall present 2 recent photos to the clerk suitable for inclusion on the applicant's official license.

d. Fingerprinting. d-1. Each new applicant for a direct seller license shall be fingerprinted by the police department.

d-2. The requirement that an applicant be fingerprinted shall not apply to a person already licensed by the city when that person is renewing the license.

d-3. If a set of fingerprints is on file with the police department, an additional set shall not be required unless expressly requested by the police department.

e. Fee. At the time the application is returned, the fee specified in ch. 81 shall be paid to the clerk to cover the cost of investigation of the facts stated therein.

5. INVESTIGATION. a. Upon receipt of each application, the clerk shall refer it immediately to the chief of police who shall make and complete an investigation of the statements made in such application.

b. The clerk shall refuse to register the applicant if it is determined, pursuant to the investigation above, that:

b-1. The application contains any material omission or materially inaccurate statement.

b-2. Complaints of a material nature have been received against the applicant by authorities in the last cities, villages and towns, not exceeding 3 places, in which the applicant conducted similar business.

b-3. The applicant was convicted of a crime, statutory violation or ordinance violation within the last 5 years, the nature of which is directly related to the applicant's fitness to engage in direct selling; or

b-4. The applicant failed to comply with any applicable provisions of sub. 4.

6. LICENSE. a. Required. In order to be licensed the applicant shall:

a-1. Tender the license fee specified in ch. 81 to cover the costs of licensing.

a-2. Sign a statement appointing the clerk his agent to accept service of process in any civil action brought against the applicant arising out of any sale or service performed by the applicant in connection with the direct sales activities of the applicant.

a-3. Be at least 18 years of age.

b. License Issued. Upon payment of the fee and the signing of the statement, the clerk shall license the applicant as a direct seller. The clerk shall deliver to each licensee an official license, which must be carried by the direct seller while engaged in employment and produced upon the request of any customer or police officer. The license is for the use of the licensee only and is nontransferable.

7. EXEMPT FROM FEES. Any veteran of the armed forces in the United States in any way who has a 25% disability or more, has a cardiac disability recognized by the United States veterans administration, and any person disabled to the extent of the loss of one arm or one leg or more, or who has been declared blind as defined under Title 16 of the Social Security Act, upon presenting proof to the city clerk that he or she satisfied these conditions, shall be exempted from payment of any fee under this section. A license issued to such veteran shall be valid for the period that he or she is engaged in this business.

8. APPEAL. Any person denied license may appeal to the utilities and licenses committee of the common council by filing a written statement within 14 days after the date license was refused setting forth the grounds for appeal. The utilities and licenses committee shall notify the applicant at least 5 days prior to the hearing date of the date and time set forth

95-1-9 Direct Sellers

for the hearing, such notice to be sent to the address given by the applicant in his statement of appeal, or served personally on applicant.

9. REGULATIONS. a. Prohibited Practices. a-1. A direct seller shall not misrepresent or make false, deceptive or misleading statements concerning the quality, quantity or character of any goods offered for sale.

a-2. No direct seller shall impede the free use of sidewalks and streets by pedestrians and vehicles; where sales are made from vehicles, all traffic and parking regulations shall be observed.

a-3. Except as provided under s. 105-57, on the day of the Circus parade, no direct seller may engage in sales in the downtown area bounded by the north side of Michigan Street and the south side of Mason Street east of the Milwaukee River and the south side of Wells Street west of the Milwaukee River between the west side of Prospect Avenue and the east side of north 10th Street and as may be specified by the police department contiguous with approved parade routes.

a-4. No direct seller may occupy more than 7 linear feet of public space parallel to the curb in the operation of a business and, in addition, occupy more than 3.5 linear feet to be measured from the curb toward the property line.

a-5. No pushcart, goods, signage or any other item related to the operation of a direct seller may touch, lean against or be affixed permanently or temporarily to any building, structure or street landscape item including, but not limited to, street lighting poles, parking meters, newspaper vending boxes, trash containers, traffic signal standards, fire hydrants, tree guards, benches or traffic barriers. Free-standing signage is prohibited.

a-6. No pushcart or goods may be located against display windows of a fixed location business, nor shall they be within 20 feet from an entranceway to any building, store, theater, movie house, sports arena or other place of public assembly.

a-7. No direct seller may conduct business within any bus stop or within 20 feet of any driveway or any cross walk at any intersection.

a-8. No direct seller shall make any loud noise or use any sound amplifying device to attract customers if the noise produced is capable of being plainly heard outside a 100 foot radius of the source.

a-9. No direct seller selling goods from a pushcart, stand, table, container or other stationary apparatus located on the public way or other public premises shall allow rubbish or litter to accumulate in or around the area in which the direct seller is conducting business, whether generated by the business or the public at large. A clean, plastic-lined trash container clearly marked for litter shall be kept and maintained in the area by the direct seller. The direct seller shall remove the container from the site for emptying on a daily basis or more frequently as conditions warrant.

a-10. No direct seller shall engage in any activity for which a license is required under this section unless at the time the direct seller is carrying upon his or her person an official license.

a-11. A direct seller shall be prohibited from selling goods or taking orders on the premises of any public building at any time without the express written consent of the custodian of such premises or any other public premise dedicated to a special purpose and posted.

a-12. No direct seller may conduct business within 300 linear feet of any currency exchange.

b. Disclosure Requirements.

b-1. After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his name, the name of the company or organization he is affiliated with, if any, and the purpose of his visit.

b-2. If any sale of goods is made by a direct seller, or any sales order for the later delivery of goods is taken by the seller, the buyer shall have the right to cancel said transaction in accordance with the procedure as set forth in s. 423.203, Wis. Stats. The seller shall give the buyer 2 copies of a typed or printed notice of that fact. Such notice shall conform to the requirements of s. 423.203 (1)(a), (b) and (c), (2) and (3), Wis. Stats.

b-3. If the direct seller takes a sales order for the later delivery of goods, he shall, at the time the order is taken, provide the buyer with a statement containing the terms of the agreement, the amount paid in advance whether full, partial or no advance payment is made, the name, address and telephone number of the seller, the delivery or performance date, and whether a guaranty or warranty is provided and, if so, the terms thereof.

c. **Liability Insurance.** To hold a valid license, a direct seller selling or offering for sale goods from a pushcart, stand, table, container or other stationary apparatus located on the public way must have in force at all times general liability insurance. As evidence of the applicant's ability to comply with this condition of the license, the applicant shall furnish to the city a certificate of insurance evidencing the existence of general liability insurance, with the city of Milwaukee named as an additional insured. Insurance coverage required under this paragraph shall be, at a minimum, a combined single limit of \$100,000 per occurrence. The certificate of insurance shall provide 30 days written notice to the city upon cancellation or nonrenewal or material change in the policy. In addition to the foregoing insurance requirements, all direct sellers shall be required to indemnify and hold harmless the city, its employees and agents against any and all claims, demands, costs, damages, expenses or liability of any kind incurred because of any damages or injuries resulting from the activities for which the license is granted.

d. **Pushcart Specifications.** d-1. A pushcart shall contain no more than 24.5 square feet of area measured on a horizontal plane (axle excluded); dimensions not to exceed 7 feet in length and 3.5 feet in width.

d-2. The vertical height of a pushcart shall not exceed 10 feet measured from ground level to the highest point on the pushcart including signage, canopy, awning or umbrella, if any.

d-3. A pushcart may be handmade or of a mass produced type.

d-4. The use of canopies, awnings or umbrellas on a pushcart shall be such as to maintain a vertical clear space of 7 feet measured from ground level to the lowest point of the canopy, awning or umbrella.

d-5. Signs or other items of equipment attached to a pushcart shall not exceed the greatest dimensions of the pushcart in both directions and shall be securely fastened.

d-6. All pushcarts shall be moved manually onto, about and off of public sidewalks. The use of a motor vehicle on a public sidewalk to deposit or remove a pushcart is prohibited.

e. Effective October 1, 1996, each side of a vehicle used in the conduct of business shall display the name of the person to whom the license is issued, and local telephone number in lettering not less than 4 inches high.

10. RECORDS. The chief of police shall report to the clerk all convictions for violation of this section, and the clerk shall note any such violation on the record of the registrant convicted.

11. REVOCATION OF LICENSE. a. A license may be revoked by the utilities and licenses committee of the common council after notice and hearing if the licensee made any material omission or materially inaccurate statement in the license application; made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales; violated any provision of this section, or was convicted of any crime, or ordinance or statutory violation which is directly related to the licensee's fitness to engage in direct selling.

b. Written notice of the hearing shall be served personally on the registrant at least 72 hours prior to the time set for the hearing; such notice shall contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

12. PENALTY. Any person convicted of violating any provision of this section shall be fined not less than \$20 nor more than \$200 for each violation, plus costs of prosecution; each day's violation shall constitute a separate offense.

95-2. Transient Merchants. 1. DEFINITIONS. In this section:

a. "Trade show or convention" means a temporary exhibition, show or meeting held by persons or organizations who are engaged in a particular business, occupation, profession or activity.

95-2-2 Direct Sellers

b. "Transient merchant" means any person, partnership, association or corporation who engages in the business of purchasing or selling of merchandise at any fixed place in the city temporarily and who does not intend to become a permanent merchant of the city of Milwaukee.

2. LICENSE REQUIRED ; EXEMPTION. a. No person shall engage in the business or occupation of a transient merchant within the limits of the city without first obtaining a license authorizing such business or occupation.

b. A transient merchant's license shall not be required of any of the following:

b-1. A person who delivers or sells newspapers.

b-2. A merchant or merchant's employee who takes orders for or delivers goods at the houses of customers when the goods are held in stock at an established place of business in the city.

b-3. A person who purchases or sells comic books or collectible toys.

b-4. A farmer or truck gardener who sells or disposes of, or offers to sell or dispose of, the products of the farm or garden occupied and cultivated by the farmer or truck gardener.

b-5. A food peddler licensed under s. 74-1.

b-6. An individual registered as an auctioneer under ch. 480, Wis. Stats.

b-7. An artist who offers for sale creations of art or craft, whether paintings, drawings, photographs, pottery, leather goods or similar works of art, provided that such creations may be sold only by the creating artist and only in locations deemed appropriate by common council resolution.

b-8. A resident of the city or a nonresident of the city who has an established place of business within the city, who sells Christmas trees as a temporary business and has obtained a license as provided in the code.

b-9. Any member of a trade show or convention being held at the Wisconsin center district.

b-10. Any person, firm or corporation that is selling goods or taking orders on the Summerfest premises with the express written consent of the custodian of such premises.

c. Nothing contained in this section shall be held to prohibit any sale required by statute or by order of any court.

3. APPLICATION FOR LICENSE.

a. Any person desiring to engage in the business as aforementioned shall make application in writing to the city clerk upon blanks furnished by said city clerk which shall require the following information:

a-1. Name, permanent residence and telephone number and temporary address and telephone number, if any.

a-2. Name, address and telephone number of the person, firm, association or corporation that transient merchant represents or is employed by, whose merchandise is being sold or for whom merchandise is being purchased.

a-3. Temporary location from which business will be conducted, and telephone number at said location.

a-4. Nature of business to be conducted, and a brief description of the things intended to be bought, sold, disposed or contracted for.

a-5. Proposed method of delivery of goods, if applicable.

a-6. Last location where applicant conducted a similar business, and place where applicant can be contacted for at least 7 days after leaving this city.

a-7. Statement as to whether applicant has been convicted of any crime or ordinance violation other than traffic offenses within the past 5 years.

b. The applicant shall present to the city clerk for examination a driver's license or some other proof of identity as may be reasonably required.

c. Whenever the business of the applicant shall require the use of weighing or measuring devices, the application shall be accompanied by a certificate from the sealer of weights and measures stating that said devices have been examined and approved.

4. ISSUANCE; QUALIFICATIONS OF LICENSEES; POSTING. a. All licenses shall be issued from a bound book with proper reference stubs kept for the purpose, numbered in the order in which they are issued and shall state clearly the kind of goods, wares and merchandise to be sold, disposed of or contracted for, the dates of issuance and expiration of the license, the fee paid and the name and address of the licensee, and the date of revocation of all licenses revoked.

b. No license shall be granted to a person under 18 years of age, and no applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least 6 months shall have elapsed since the last previous rejection or revocation, unless he can show that the reason for such rejection or revocation no longer exists. Every licensee, while exercising his license, shall carry the license with him or keep the same posted in his place of business and shall exhibit the same upon demand of an officer or customer or prospective vendee. A license shall not be assignable, and any holder of such license who permits it to be used by any other person, and also any person who uses a license granted to any other person shall be guilty of a violation of this section.

c. Whenever a license shall be defaced, lost, stolen or destroyed, the licensee shall immediately apply to the city clerk for a duplicate. The city clerk shall before issuing a duplicate receive from said licensee a sum equal to the costs of each license.

5. LICENSE FEES. Any person desiring a license as a transient merchant shall, before receiving the same, pay the city clerk the sum as specified in ch. 81.

6. REVOCATION OF LICENSE. a. A license may be revoked by the utilities and licenses committee of the common council after notice and hearing if the licensee made any material omission or materially inaccurate statement in the application for a license; made any fraudulent, false, deceptive or misleading statement for representation in the course of engaging in the business or occupation of a transient merchant; violated any provision of this section, or was convicted of any crime, or ordinance or statutory violation which is directly related to the licensee's fitness to engage in the business or occupation of a transient merchant.

b. Written notice of the hearing shall be served personally on the licensee at least 72 hours prior to the time set for the hearing; such notice shall contain the time and place of hearing and a statement of the acts upon which the hearing will be based.

7. ORDERS REQUIRED IN WRITING. All orderstaken by a licensee under this section who demands, accepts or receives payments or

deposits of money in advance of final delivery, shall be in writing, in duplicate stating the terms thereof and the amount paid in advance, and one copy shall be given to the purchaser at the time the deposit of money is paid to the solicitor.

8. BARKING, ETC. PROHIBITED. A licensee shall:

a. Not falsely or fraudulently misrepresent the quantity, character or quality of any article offered for sale, or offer for sale or sell unwholesome or tainted food or foodstuffs.

b. No buyer shall advertise, print, display, publish, distribute or broadcast in any manner any statement which is false, misleading or deceptive, or which omits material information with respect to the transaction of their business.

c. Not use the credentials provided by the city after the expiration or revocation of the license represented by them.

d. Keep the vehicles and receptacles used by him in a clean and sanitary condition and the foodstuffs offered for sale well covered and protected from dirt, dust and insects.

e. Not blow a horn, ring a bell or use any other noisy device to attract attention to his business.

f. Keep records and make reports as herein defined. Every transient merchant who purchases property or goods within the city shall keep a book approved as to type and form by the chief of police, such as prescribed in s. 92-2-6-a. It shall be the duty of every licensed person to make out and deliver to the chief of police reports of purchases as prescribed in s. 92-2-6-c.

9. INVESTIGATION. a. Upon receipt of each application, the city clerk shall refer immediately to the chief of police who shall make and complete an investigation of the statements made in such application as soon as possible, but no later than 10 days following referral.

b. The city clerk shall refuse to register the applicant if it is determined pursuant to the above investigation that:

b-1. The application contains any material omission or inaccuracy.

b-2. Complaint of a material nature has been received against applicant by authorities in another community where applicant conducted a similar business.

95-14 Direct Sellers

b-3. Applicant was convicted of a crime or ordinance violation within the past 5 years, the nature of which is directly related to the applicant's fitness to buy or sell under the provisions of this section.

b-4. The applicant failed to comply with any applicable provision of sub. 3.

10. BONDS REQUIRED. a. No license shall be issued unless the applicant shall file with each application a surety bond by a bonding company authorized to do business in this state. Every such bond filed with the city clerk shall contain an endorsement that the same shall not be cancelled by the obligor, shall not expire and shall not be reduced in amount until 10 days after notice thereof by registered U.S. mail has been sent to the city clerk. Upon receipt of such notice, the city clerk shall immediately send the transient merchant at his last known address by registered U.S. mail, return receipt requested, a notice advising him that unless a new bond is filed, the license of such transient merchant shall be revoked at the time such cancellation, expiration or reduction becomes effective. If a new bond is not filed in accordance with such notice, the city clerk must revoke the license at such time.

b. The surety bond shall be in the penal sum of \$5,000 and in such form as may be prescribed by the city clerk for the purpose of protecting the public against fraud. The bond shall be conditioned to pay any judgment that may be obtained against the transient merchant for civil liability arising out of engaging in the business or occupation of transient merchant within the city.

c. In lieu of the surety bond provided under pars. a and b, the applicant may deposit with the city clerk a certified check in the amount of \$5,000. The city clerk shall return the certified check to the transient merchant 30 days after the completion of his or her business activity in the city.

d. Before a license shall be issued, the applicant shall sign and file with the city clerk an irrevocable power of attorney appointing the city clerk as agent to accept service of the summons for all cause of action against him arising out of the conduct of his business or occupation as a transient merchant. Service of a summons in all causes of action described in this section may be made upon the transient merchant by sending 2 copies of such

summons to the city clerk by registered U.S. mail. The city clerk shall immediately upon receipt of thereof endorse upon each copy the date and hour received, and shall file one copy whereupon service of said summons shall be deemed to be completed upon the transient merchant. The city clerk shall on the same day send to the transient merchant the other copy of the summons so received by registered U.S. mail, return receipt requested.

11. PENALTY. Any person violating this section shall, upon conviction in any court having jurisdiction, be punished by a fine of not less than \$10 or more than \$200 and costs of prosecution, and on default of the payment of the fine and costs of prosecution, shall be imprisoned in the county jail until said fine and costs of prosecution are paid, but not to exceed 30 days.

95-14. Home Improvement Contractor and Salesperson Licenses. 1. DEFINITIONS. In this section: a. "Person" means any person, firm, partnership, corporation or limited liability corporation.

b. "Contractor" means any person engaged in the business of installing, repairing, servicing, improving or remodeling any permanent installation or improvement attached to an existing home or building used for residence purposes but not exceeding 6 living units, accessory buildings, or any appurtenance thereto, or any sidewalks, driveways or other approaches to such building. This shall include, but not be limited to, roofing, walls, siding, windows, doors, floors, partitions, ceilings, porches, awnings, heating, furnace cleaning, air conditioning, chimneys, water softeners, humidifiers, purifiers, electrical installations, plumbing installations, concrete work, painting and sheet metal work.

c. "Salesperson" means any person who solicits or sells at any place within the city, other than within a building or structure used as a place of business, any home improvement or permanent installation or similar improvement attached to an existing home or building used for residence purposes, but not exceeding 6 living units, accessory buildings, or any appurtenance thereto, or any sidewalks, driveways, or other approaches to such building. This shall include, but not be limited to, roofing, walls, siding, windows,

doors, floors, partitions, ceilings, porches, awnings, heating, furnace cleaning, air conditioning, chimneys, water softeners, humidifiers, purifiers, electrical installations, plumbing installations, concrete work, painting and sheet metal work. Any person performing emergency services requiring the installation of parts where the total cost does not exceed \$100 shall not be considered a salesperson under this section.

2. LICENSE REQUIRED.

a. Requirement. No person shall within the city engage in the business of salesperson or act as a contractor without first having obtained a contractor or salesperson's license as provided in this section.

b. Exemptions. b-1. Licensed master plumbers licensed under the statutes of the state of Wisconsin and licensed electrical contractors licensed by the city need not obtain contractors' and salespersons' license, but shall in all other respects comply with this section.

b-2. Individuals, corporations which include only one person, or limited liability companies having only one member, which have been issued a contractor's license as provided in this section, need not have a salesperson's license, but shall in all other respects comply with this section.

b-3. Any company or industry regulated under ch. 196, Wis. Stats., and any persons who are employees thereof shall be exempt from this section.

3. APPLICATION. a. Applications for new and renewal contractor or salesperson licenses shall be filed with the city clerk on forms provided therefore. The application shall be signed by the applicant, if an individual, or by a duly authorized agent or officer of a corporation or limited liability corporation, and sworn to by the applicant.

b. The application shall require:

b-1. The name and permanent address of the applicant.

b-2. The name and permanent address of the applicant's employer.

b-3. If the applicant is a corporation or limited liability corporation, the name of the corporation shall be set forth exactly as it is set forth in its articles of incorporation, together with the names and permanent address of each of its officers, directors and designated managers, if any; the application shall be verified by an officer of the corporation. If one

or more of the officers is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate officers.

b-4. If the applicant is a partnership, the application shall set forth the name and permanent address of each of the partners, including limited partners, and each partner shall verify the application. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant shall apply to the corporate partners.

b-5. If the applicant is a club, association or other organization that is neither a corporation nor partnership, the application shall set forth the exact name of the entity together with the names and permanent addresses of all officers and be verified by an officer of the club, association or organization.

b-6. All convictions, including ordinance violations exclusive of traffic violations, with a brief statement of the nature of the convictions and the jurisdiction in which the conviction occurred.

b-7. The date of birth of the applicants.

b-8. Whether the applicant has prior to the date of application been licensed in this city as a contractor or salesperson as defined in this section.

b-9. Such other reasonable and pertinent information the common council or the proper licensing committee may from time to time require.

c. Post office box numbers shall not be acceptable for addresses required on applications for home improvement contractor and salesperson licenses.

d. Photos. Each individual applicant or partner for a home improvement or salesperson license shall present 2 recent photographs to the city clerk suitable for inclusion on the applicant's official certificate. One photograph shall be attached to the license when issued, and the other photograph shall be filed with the application with the city clerk.

e. Fingerprinting. e-1. Each new applicant for a home improvement or salesperson license shall be fingerprinted by the police department. If the applicant is a corporation, the agent and all the officers and

95-14-4 Direct Sellers

directors as well as the stockholders owning 20% or more of the stock of the corporation shall be fingerprinted. If the applicant is a partnership, each partner shall be fingerprinted.

e-2. Exemptions. The requirement that an applicant be fingerprinted shall not apply to a person already licensed by the city when that person is renewing the license.

e-3. Duplicate Sets Not Required. If a set of fingerprints is on file with the police department, an additional set shall not be required unless expressly requested by the police department for purposes of verification.

f. Changes, Transfers. f-1. Changes to be Reported. All persons licensed under this section shall notify the city clerk whenever there is a change in any information that is reported in the application form or renewal application form within 5 days after the change occurs.

f-2. Transfers. Every license issued under this section may, upon authority so granted by the common council and upon payment of the fee specified in ch. 81, be transferred from one business address to another business address, but no license shall be entitled to more than one transfer in any one license period. The application for transfer shall be made on forms provided by the city clerk.

4. LICENSE FEE; PERIOD. All applications shall be accompanied by the fee specified in s. 81-60. See s. 81-60 for the required license fees and the date of expiration.

5. BONDS AND INSURANCE. Upon application, every person applying for a contractor's license shall file with the city clerk a performance bond in the sum of \$1,000 annual aggregate of all losses and a certificate of insurance as provided in pars. a and b.

a. Performance. The performance bond shall be conditioned that the applicant will perform and sufficiently complete all work engaged in as a result of being granted a contractor's license and guarantee that the contractor will perform in accordance with all the provisions of this section and all other ordinances of the city. The bond shall extend for the same period for which the license is issued and shall not be cancelled except on at least 20 days' written notice to the city clerk. The form of such bond shall be prepared and furnished by the city clerk.

b. Liability and Property Damage. The certificate of contractor's general liability and property damage insurance shall be in the sum of not less than \$25,000 per person, \$50,000 per accident, bodily injury liability, and \$10,000 property damage liability, and shall provide that the company will give 10 days' written notice to the city clerk of cancellation, expiration or notice of the company's intent not to renew; otherwise such insurance shall continue in full force and effect.

c. Cancellation or Nonrenewal. In the event of a cancellation or nonrenewal of either the performance bond or the certificate of insurance, the contractor's license shall be automatically suspended. The suspension shall terminate upon presentation of a certificate of insurance or performance bond that evidences that the policies required under this subsection have been issued or reissued to the contractor. All bonds and certificates shall be executed by a corporate surety or insurance company licensed to do business in the state of Wisconsin and shall have affixed thereto an affidavit of no interest. All such bonds and certificates shall be approved as to form and execution by the office of the city attorney before the same shall be accepted by the city clerk.

6. INVESTIGATION. All applications shall be referred to the chief of police who shall cause an investigation to be made and report his or her findings to the city clerk. If the chief files no written report summarizing the arrest and convictions of the applicant which could form a basis for denial, the city clerk shall issue the license. If the chief files a written report summarizing the arrest and convictions of the applicant which could form a basis for denial, the application shall be forwarded to the proper licensing committee of the common council for its recommendation as to whether or not each license should be issued.

7. COMMITTEE ACTION. a. Notice.

a-1. If there is a possibility of denial of any license regulated by this section, no hearing shall be heard unless the city clerk's office has provided written notice to the applicant so that the applicant has at least 3 days' notice of the hearing.

a-2. The notice shall contain:

a-2-a. The date, time and place of the hearing.

a-2-b. A statement to the effect that the possibility of denial of the license application exists and the reasons for possible denial.

a-2-c. A statement that an opportunity will be given to the applicant to respond to and challenge any reason for denial and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

a-2-d. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

a-3. If it appears for the first time at the hearing that there will be objections, then the matter will be laid over until the next meeting, prior to which proper notice will be given.

b. Hearing. b-1. If there is a possibility of denial, at the hearing the committee chair shall open the meeting by stating that a notice was sent and read the notice into the record unless the applicant admits notice. The chair shall advise the applicant that the applicant has an option to proceed with a due process hearing, represented by legal counsel, with all testimony both direct and cross-examination under oath, or that the applicant may simply make a statement to the committee.

b-2. A due process hearing shall be conducted in the following manner:

b-2-a. All witnesses shall be sworn in.

b-2-b. The chair shall ask those opposed to the granting of the license to proceed first.

b-2-c. The applicant shall be permitted an opportunity to cross-examine.

b-2-d. After the conclusion of the opponent's testimony, the applicant shall be permitted to present the applicant's own witnesses, subject to cross-examination.

b-2-e. Committee members may ask questions of witnesses.

b-2-f. Both proponents and opponents shall be permitted a brief summary statement.

c. Recommendations. c-1. The recommendations of the committee regarding the applicant must be based on evidence presented at the hearing. Probative evidence concerning whether or not the license should be granted may be presented on the following subjects:

c-1-a. Whether the applicant is of good professional character or has been charged with or convicted of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the particular activity for which the license is issued.

c-1-b. Whether the applicant has violated any of the required and prohibited practices set forth in this section.

c-1-c. Whether the applicant's previous license has not been renewed, suspended or revoked for any reason whatsoever.

c-1-d. Whether there is an inability of the applicant to substantially understand the required business regulations set forth in this section.

c-1-e. Whether the applicant has failed in the past to act in accordance with this section.

c-1-f. Whether the applicant has been issued a warning letter or had the imposition of administrative sanctions by the Wisconsin department of agriculture, trade and consumer protection.

c-1-g. Whether a judgment has been rendered against the applicant by any court of competent jurisdiction regarding violations of ordinances of the city or laws of the state of Wisconsin the nature of which substantially relate to the particular activity for which the license is issued, or a judgment has been rendered against the applicant regarding improper work.

c-1-h. Any other factors which reasonably relate to the public health, safety and welfare.

c-2. The recommendations of the committee regarding the applicant must not be based on evidence presented at the hearing related to the quality of any workmanship.

c-3. The committee may make a recommendation immediately following the hearing or at a later date. Written notice of the committee's decision will be provided if the decision is made at a later date or if the applicant was not present or represented. The committee shall forward its recommendation in writing to the common council for vote at the next meeting at which such matter will be considered.

d. Disqualification. Whenever an applicant for a new license has had his or her application denied, it shall be entered on the record by the city clerk and no home improvement contractor or salesperson license shall be granted to the same person for a period of 12 months following the date of denial.

8. ISSUANCE OF LICENSE. a. If the common council grants the application for a home improvement contractor or salesperson license, the city clerk shall issue an appropriate

95-14-9 Direct Sellers

document to the applicant confirming that fact. The license shall contain the person's true first name, surname and middle initial, the picture of the applicant if individual or partnership, the number of the license, the period of time for which the license is valid, and a statement that issuance of the license does not constitute an endorsement by the city of the person or product. The license shall be in such form as to avoid alteration.

b. The license shall be carried on the person of the salesperson or contractor and shall be exhibited to any person requesting to see the same at any time while the person is engaged in selling or soliciting business.

9. RENEWAL OF LICENSE.

a. Procedure for Renewal. Applications for renewal shall be made to the city clerk. The clerk shall refer the application to the chief of police for review. If the chief indicates that the applicant still meets the licensing qualifications, the city clerk shall issue the license unless a written objection has been filed with the city clerk at least 45 days prior to the date on which the license expires. Any interested person may file the objection. If a written objection is filed, or if a determination is made that the applicant no longer meets the licensing qualifications, the application shall be forwarded to the licensing committee for its recommendation to the common council.

b. Procedure for Non-Renewal. b-1. If there is a possibility that the committee will not renew a license, a motion should be entertained to hold the application in committee and instruct the city clerk to forward proper notice to the applicant, unless such proper notice has already been sent, in which case the hearing shall proceed.

b-2. Prior to the date set for the hearing, the city clerk's office shall forward notice to the applicant which shall contain:

b-2-a. The date, time and place of the hearing.

b-2-b. A statement of the common council's intention not to renew the license in the event any objections to renewal are found to be true.

b-2-c. A statement of the reasons for non-renewal.

b-2-d. A statement that an opportunity will be given to respond to and challenge the reasons for non-renewal and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

b-2-e. A statement that the applicant may be represented by an attorney of the applicant's choice at the applicant's expense, if the applicant so wishes.

c. Hearings. All hearings held and committee recommendations prepared pursuant to this subsection shall be conducted as set forth in sub. 11.

d. Disqualification. Whenever any license is denied renewal, it shall be entered on the record by the city clerk and no home improvement or salesperson license shall be granted to the same person for a period of 12 months following the date of non-renewal.

e. Surrender. When any license is surrendered in lieu of a pending non-renewal proceeding, no other home improvement or salesperson license shall be granted to the same person for a period of 12 months following the date of its surrender.

10. REVOCATION OR SUSPENSION OF LICENSE. a. Procedure. Any license issued under this section may be suspended or revoked for cause by the common council after notice to the license holder and a hearing.

b. Suspension or revocation proceedings may be instituted by the licensing committee upon its own motion, or upon sworn written charges made and filed with the city clerk by the chief of police or upon a sworn written complaint filed with the city clerk by any city resident.

c. Whenever either sworn written charges or a sworn written complaint are filed with the city clerk setting forth specific charges against a license holder involving conduct which would violate provisions that are grounds for revocation or suspension of a license, the city clerk shall issue notice to the license holder of the licensing committee's intention to hear the matter. The notice shall be served upon the license holder so that the license holder has at least 3 working days' notice of the hearing. The notice shall contain:

c-1. The date, time and place of the hearing.

c-2. A statement to the effect that the possibility of suspension or revocation of the license exists and the reasons for possible revocation or suspension.

c-3. A statement that an opportunity will be given to the license holder to respond to and challenge any reason for revocation or suspension and to present witnesses under oath and to confront and cross-examine opposing witnesses under oath.

c-4. A statement that the license holder may be represented by an attorney of the license holder's choice at the license holder's expense, if the license holder wishes.

d. The licensing committee shall convene at the date and time designated in the notice for the purpose of taking evidence and making findings of fact and conclusions of law and a recommendation to the common council in connection with the proposed revocation or suspension.

e. If the license holder appears before the committee at the time designated in the notice and denies the charges contained in the complaint, the committee shall conduct an evidentiary hearing in connection with the revocation or suspension at that time. If the license holder does not appear, or appears but does not deny the charges contained in the complaint, the complaint shall be taken as true and the committee shall hear the arguments of the complaints and the license holder in connection with the revocation or suspension.

f. Hearings. f-1. All hearings held and committee recommendations prepared pursuant to this subsection shall be conducted as set forth in sub. 11.

g. Disqualification. Whenever any license is revoked, the city clerk shall enter it on the record and no home improvement or salesperson license shall be granted to the same person for a period of 12 months following the date of revocation.

h. Surrender. When any license is surrendered in lieu of a pending revocation or suspension proceeding, no other home improvement or salesperson license shall be granted to the same person for a period of 12 months following the date of its surrender.

11. HEARING PROCEDURE. a. Authority of Licensing Committee. The licensing committee shall conduct hearings with respect to the non-renewal, suspension or revocation of home improvement contractor and salesperson licenses pursuant to this subsection. The chair of the licensing committee shall be the presiding officer.

b. Committee Hearing Procedure. b-1. The chair shall direct that oaths be administered and subpoenas issued upon request of either side.

b-2. The chair shall ensure that an orderly hearing is conducted in accordance with the requirements of this subsection.

b-3. The chair shall rule on objections to the admissibility of evidence. Any ruling of the chair shall be final unless appealed to the committee, and the committee shall reverse a ruling only upon the vote of a majority of its members.

b-4. At all stages of the proceedings before the committee or before the common council, the license holder shall be entitled to appear both in person and by an attorney.

c. Record. A stenographic record shall be made of all proceedings before the committee and before the common council when written exceptions have been filed. Any interested party may at any stage of the proceedings order a copy of the transcript of the record or portions thereof at his or her own expense.

d. Grounds for Non-Renewal, Suspension or Revocation. The recommendation of the committee regarding the license holder shall be based on evidence presented at the hearing. Probative evidence concerning non-renewal, suspension or revocation may include evidence of:

d-1. Failure of the license holder to meet the statutory and municipal qualifications or any of the terms of this section.

d-2. Pending charges against or the conviction of the license holder, or his or her employes, of any felony, misdemeanor, municipal offense or other offense, the circumstances of which substantially relate to the particular activity for which the license is issued.

d-3. Failure to obtain any permit required under the ordinances of the city or laws of the state of Wisconsin, or employing persons not authorized to do any specific work as required under the ordinances of the city or laws of the state of Wisconsin.

d-4. Whether the license holder, or his or her employes, has violated any of the required and prohibited practices set forth in this section.

95-14-11-e Direct Sellers

d-5. Whether the license holder has been issued a warning letter or had the imposition of administrative sanctions by the Wisconsin department of agriculture, trade and consumer protection.

d-6. Whether a judgment has been rendered against the license holder by any court of competent jurisdiction regarding violations of ordinances of the city or laws of the state of Wisconsin the nature of which substantially relate to the particular activity for which the license is issued, or a judgment has been rendered against the license holder.

d-7. Any other factor or factors which reasonably relate to the public health, safety and welfare.

e. The recommendations of the committee regarding the license holder must not be based on evidence presented at the hearing related to quality of workmanship.

f. Committee Report. The committee may make a recommendation immediately following the hearing or at a later date. The committee may recommend that the license be renewed, not renewed, suspended or revoked. In addition, if the committee determines that circumstances warrant it, the committee may recommend that the license be renewed conditioned upon a suspension of the license for a defined period of time. When the committee elects to recommend that a certificate be renewed with a period of suspension, the certificate may be suspended for not less than 10 days and no longer than 90 days. All non-renewals, suspensions and revocations shall be effective upon service of notice of the non-renewal, suspension or revocation upon the license holder or person in charge of the premises at the time of service.

g. Council Action. g-1. Within 10 working days after it reaches a decision, the committee shall prepare and serve a report and recommendation on the license holder. The report and recommendations shall include specific findings of fact and conclusions of law made by the committee. The report shall be distributed to each member of the common council.

g-2. If the committee recommends that the license not be renewed, be revoked or suspended, then within 7 days of the receipt of the report and recommendation of the committee, the license holder may file written exceptions to the report and recommendations of the committee.

g-3. Any exceptions filed by the license holder to the report and recommendations of the committee shall be provided to each member of the common council at least 24 hours before any vote on the question is scheduled before the common council.

g-4. At a meeting of the common council following the receipt of the report and recommendations of the committee, the common council shall consider the report and recommendation. Not less than 5 days prior to the hearing before the common council, the city clerk shall notify the license holder and complainant by mail and also notify the city attorney that the common council will convene. Each member of the common council shall be asked to affirm that he or she has read the report and recommendation of the committee. When written exceptions are filed to a committee report and recommendation that the certificate be suspended or revoked or non-renewed, each member of the common council shall be asked to affirm that he or she has read the exceptions. If members of the council have not read the recommendation and report of the committee and any exceptions that have been filed thereto, the chair shall allocate time for the member to do so. Oral argument in support of the report and recommendation presented by the city attorney, oral argument on behalf of the certificate holder in opposition to the report and recommendation and oral argument by the complainant objecting to the report and recommendation shall be permitted only at the discretion of the chair. If argument is permitted by the chair, argument shall be limited to 5 minutes and the argument shall be limited to the subject matter of the report and recommendation and the written exceptions. License holders shall appear only in person or by legal counsel. A corporate license holder shall appear only by the agent or by legal counsel. A partnership shall be represented only by a partner or by legal counsel. A limited liability company shall be represented only by the agent or by legal counsel. Complainants shall appear only in person or by legal counsel. Any person making an appearance before the council pursuant to this subsection and who requires the services of an interpreter shall obtain one at his or her own expense.

g-5. The common council shall determine by a majority vote of those in attendance and voting whether to adopt the recommendation of the committee. The vote shall be a roll call vote. If the common council finds the complaint to be true, or if there is no objection to a report recommending non-renewal, suspension or revocation with the committee's report and recommendation, the city clerk shall give notice of each nonrenewal, suspension or revocation to the person whose license is not renewed, suspended or revoked. If the common council finds the complaint to be untrue, the proceedings shall be dismissed without cost to the accused. If the common council finds the complaint to be malicious and without probable cause, the cost shall be paid by the complainant upon invoice from the city.

h. Request to Surrender a License. If a license holder wishes to surrender his or her license after receiving a notice for a hearing on non-renewal, revocation or suspension, the license holder must request, in writing, permission from the licensing committee to do so prior to the commencement of the hearing. The committee may approve the request, or deny the request and proceed with the hearing.

12. REQUIRED AND PROHIBITED PRACTICES. All persons licensed under this section shall:

a. Pay All Subcontractors. Pay all subcontractors and material suppliers so that no liens are filed against the owner of the property to whom the sale has been made, and furnish such owner waivers of liens from material suppliers and subcontractors within 30 days of completion of any job; except that where any subcontractor or material supplier's bill is the subject of a bona fide dispute in a legal action, no waivers need be furnished until the determination of such action. Legal action in this section shall include any type of arbitration or 3rd party determination of the dispute recognized by the trade.

b. Furnish Copies of All Written Documents. Furnish to the purchaser a copy of all written documents which the purchaser is requested to sign at the time of signing.

c. Written Agreements. Before starting work of any kind, enter into a contract or firm agreement with the purchaser as to price and the work to be done, provided that no written contract shall be required where the work to be

done is of an emergency nature and the total cost does not exceed \$100. Any such agreement shall include therein a complete statement as to:

c-1. The specific work to be done.

c-2. The material to be used, describing it by brand name, if possible, and by weight, size and color.

c-3. Guarantees and warranties made or represented to buyer in writing, setting forth by whom guaranteed or warranted, and any and all exclusions and limitations as to cost of repair, replacement of parts, service charges and labor charges.

c-4. The time in which the work is expected to be completed.

c-5. All financing, including the initial cost, any time charges, interest, etc., and the total cost including such charges, together with the amount of payment, the time at which the payments will begin, and the length of time for which they will continue.

c-6. A statement agreeing to restore and repair any part of the property of the purchaser destroyed or damaged, where such damage results from the negligent acts of the contractor, his or her agents or subcontractors.

c-7. A statement of the fact that the contractor or salesperson has a license from the city does not constitute an endorsement of the person or product by the city.

d. Other Regulations. No contractor or salesperson obtaining a license under this section shall:

d-1. Imply that having a license constitutes an endorsement or recommendation of the city. No person shall advertise in any manner that they have obtained a license from the city.

d-2. Use any false or deceptive inducements or misrepresent or falsely state to a prospective customer that his or her dwelling or building is to serve as a "prospective buyer" lure or "model home" or "advertising job," and that he or she will be paid a commission or other compensation for any other sales the seller may make in the vicinity or within a specified distance from the customer's location, and in that way lead the customer to believe that the cost of the improvement or installation will be fully paid or reduced by reason thereof.

95-14-12-d-3 Direct Sellers

d-3. Misrepresent to a prospective customer that he or she is being given a special, introductory, confidential, close-out, factory or wholesale price or discount, or any other concession; or that this price or discount or any other concession is made due to materials left over from a nearby job or a test of the local market or a market survey.

d-4. Misrepresent that anyone, whether connected with the seller or not, is especially interested in seeing that the prospective customer gets a bargain, special price, discount or any other concession.

d-5. Substitute any product or material, or deliver or install or apply a product of different brand, grade or quality from that represented by any sample, illustration or model.

d-6. Misrepresent or mislead prospective customers into believing that:

d-6-a. Fire resistant materials are incombustible or fire-proof.

d-6-b. The product needs no periodic repainting, refinishing, maintenance or any other service.

d-6-c. The product is of a specific or well known brand name or manufacture, or that the product is nationally advertised.

d-6-d. The product meets or exceeds minimum municipal, state, federal or other applicable standards or requirements.

d-6-e. The product is of a specific size, weight, grade or any other identifiable character.

d-6-f. The product is approved or recommended by any government agency, or other applicable organizations, or that they are the users of said product.

d-6-g. The product is or will be custom-built or specially designed for the needs of the customer.

d-6-h. The buyer need not obtain any permit, authorization or approval from any municipal, state or federal government agency to apply or install the product, or that the seller has or will obtain such permission or approval.

d-6-i. The product will not be damaged by hail or other storm.

d-7. Give any guarantee that is not specific, clear and definite or which shall misrepresent or lead the customer to believe that the manufacturer or anyone else is the guarantor of the product, or give any guarantee unless the same is given in writing.

d-8. Start installation or apply a small portion of the product with the misrepresentation that it is a tryout or test, or any other reason, where in fact it is done so the seller can claim partial performance or that work has actually begun on the job, and induce or force the purchaser into the terms of the contract.

d-9. Misrepresent or mislead the prospective customer into believing that insurance or some other form of protection will be given if the customer in any way is unable to make the payments agreed upon.

d-10. Misrepresent or mislead the customer into believing that the signing of any completion slip, financial statement, advertising agreement, contract, bond or promissory note, or any other document, either before or after completion of the job, will impose no obligation upon the customer, or that such signing will relieve or end some or all of the obligations of the seller.

d-11. Ask or require the customer to sign a completion slip before the installation or job is completed in accordance with the terms of the contract.

d-12. Gain entry or access into the prospective customer's home or into his property under the guise of any governmental inspection right or duty, or the misrepresentation that the seller has such authority, or under the guise that the seller is an employee or represents a public utility.

d-13. Misrepresent or lead the customer to believe that some product or part is unavailable or that there will be a long delay in manufacture, delivery or service, in order to induce or force a customer to buy a product from the seller.

d-14. Fail to disclose in advertising that the advertised prices or offer does not include delivery or installation, if such is the fact.

d-15. Fail to disclose in writing all financial arrangements, interest, service fees, credit investigation costs, and building or installation permit fees, or that the promissory note or any other similar instrument will be placed with a financial institution for collection.

d-16. Misrepresent through the use of any picture, drawings or illustrations, scare tactics, demonstration devices or claims which threaten or imply any physical, mental or bodily harm.

d-17. Misrepresent that the seller is an employee, officer or representative of a manufacturer, importer or any other person, firm, or organization, or that such person, firm or organization will assume some obligation in fulfilling the terms of the contract.

d-18. Misrepresent that maintenance, service or repairs, and replacement parts will be readily available within the customer's immediate trade area.

d-19. Disparage or degrade any of the seller's own advertised products or services, in order to induce or attempt to induce the customer to buy higher priced products or materials from the seller.

d-20. Misrepresent to the purchaser that his or her property is or will be condemned if no work is done.

d-21. Promise or give any money as an inducement for making the sale.

d-22. Represent to the purchaser that his or her taxes or insurance rates will or will not be affected as a result of the sale or installation.

d-23. Use a contract of any other person when not properly authorized.

13. CONTRACTOR'S RESPONSIBILITY FOR SALES PERSONNEL. Each contractor obtaining a license shall be responsible for the acts of his or her salesperson regardless of whether the same be his or her employee, agent or subcontractors, and shall be subject to all the penalties to which the salesperson shall be subject, if the salesperson violates this section, including revocation of his or her license.

14. PENALTY. a. Any person acting as a salesperson or contractor without having obtained a license so to act or violating any other provision of this section shall be punished by a forfeiture of not less than \$ 250 nor more than \$3,000. On default of payment thereof, such person shall be committed to the county jail or house of correction for not less than 10 days nor more than 90 days. Each day in which any person shall operate as a salesperson or contractor without having obtained a license, or after revocation or suspension of the same, shall constitute a separate offense.

b. In addition to other applicable enforcement procedures and pursuant to the authority of s. 66.0113, Wis. Stats., the department of neighborhood services may issue

citations pursuant to the citation procedure set forth in s. 50-25 to any person violating sub. 2. The police department is also authorized to issue citations for violations of sub. 2.

95-15. Door-to-door Solicitation.

1. DEFINITION. In this section, "solicitor" means any person who goes from house to house, from place to place or from street to street selling or taking orders for, or offering to sell or take orders for goods, wares or merchandise, including books, periodicals, magazines or personal property of any nature for future delivery.

2. REGISTRATION WITH POLICE REQUIRED. a. No later than 5 days prior to any solicitation within the city, each solicitor shall register with the district police station in the area in which he or she intends to solicit. This registration shall contain the solicitor's name, home address and date of birth and the name and address of the person, firm, corporation or organization which the solicitor represents.

b. In lieu of the requirement in par. a, any person, firm, corporation or organization soliciting with a number of solicitors may, no later than 5 days prior to any solicitation, provide a current list of solicitors representing the person, firm, corporation or organization to the applicable district police station. The list shall include the names and addresses of the persons, firms, corporations or organizations and the names, home addresses and dates of birth of all solicitors.

3. SIGN PROHIBITING SOLICITATION. Any city resident who wishes to exclude solicitors from premises occupied by him or her may place upon or near the usual entrance to the premises a printed placard or sign bearing the notice "Solicitors Prohibited" or similar restriction. If such a sign is posted, then no solicitor may ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, but shall immediately and peacefully depart from the premises. No solicitor may enter or attempt to enter in or upon any premises where such a placard or sign is placed or maintained.

95-15-4 Direct Sellers

4. IDENTIFICATION CARD. Each solicitor shall have an identification card displayed on his or her person at all times while soliciting containing the name and address of the person, firm, corporation or organization the solicitor represents, including the name of a responsible person affiliated with the person, firm, corporation or organization conducting the solicitation who may be contacted regarding complaints or questions as to the manner or method of solicitation undertaken.

5. EXEMPTIONS. This section does not apply to persons exempted under s. 95-1-3.

6. PENALTY. Any person violating this section shall be subject to a forfeiture of not less than \$50 nor more than \$500.

**LEGISLATIVE HISTORY
CHAPTER 95**

Abbreviations:

am = amended
cr = created

ra = renumbered and amended
rc = repealed and recreated

m = renumbered
rp = repealed

<u>Section</u>	<u>Action</u>	<u>File</u>	<u>Passed</u>	<u>Effective</u>
95-1-1	rc	890661	11/17/89	3/1/90
95-1-2	rc	871182	4/4/89	4/22/89
95-1-2-c	am	890490	7/25/89	8/15/89
95-1-2-c	rc	951622	2/10/98	2/27/98
95-1-2-e	am	892507	5/8/90	5/25/90
95-1-2-g	rc	971912	5/5/98	5/22/98
95-1-2-i	cr	890661	11/17/89	3/1/90
95-1-2-j	m to 95-1-2-k	892507	5/8/90	5/25/90
95-1-2-j	cr	892507	5/8/90	5/25/90
95-1-2.5	cr	960171	6/25/96	7/13/96
95-1-3-0	am	892507	5/8/90	5/25/90
95-1-3-0	am	960171	6/25/96	7/13/96
95-1-3-g	rp	951126	11/28/95	12/15/95
95-1-3-h	m to 95-1-3-g	951126	11/28/95	12/15/95
95-1-3-i	m to 95-1-3-h	951126	11/28/95	12/15/95
95-1-3-j	m to 95-1-3-i	951126	11/28/95	12/15/95
95-1-3-k	m to 95-1-3-j	951126	11/28/95	12/15/95
95-1-3-L	cr	892507	5/8/90	5/25/90
95-1-3-L	m to 95-1-3-k	951126	11/28/95	12/15/95
95-1-3-L	cr	040411	9/21/2004	10/8/2004
95-1-4-a-0	am	871182	4/4/89	4/22/89
95-1-4-a-5	am	871182	4/4/89	4/22/89
95-1-4-a-6	m to 95-1-4-a-8	871182	4/4/89	4/22/89
95-1-4-a-6	cr	871182	4/4/89	4/22/89
95-1-4-a-6	am	890661	11/17/89	3/1/90
95-1-4-a-7	m to 95-1-4-a-9	871182	4/4/89	4/22/89
95-1-4-a-7	cr	871182	4/4/89	4/22/89
95-1-4-a-8	m to 95-1-4-a-10	871182	4/4/89	4/22/89
95-1-4-a-9	m to 95-1-4-a-11	871182	4/4/89	4/22/89
95-1-4-a-10	m to 95-1-4-a-12	871182	4/4/89	4/22/89
95-1-4-d	m to 95-1-4-e	971912	5/5/98	5/22/98
95-1-4-d	cr	971912	5/5/98	5/22/98
95-1-4-e	am	031287	1/21/2004	2/7/2004
95-1-5-a	am	971912	5/5/98	5/22/98
95-1-6-b	am	890137	6/27/89	7/18/89
95-1-6-b	am	970623	7/25/97	8/13/97
95-1-7	am	880148	6/7/88	6/24/88
95-1-9-a-3	am	890138	6/6/89	6/24/89
95-1-9-a-3	am	951346	1/23/96	2/9/96
95-1-9-a-4	am	900258	7/10/90	7/27/90
95-1-9-a-5	rc	890661	11/17/89	3/1/90
95-1-9-a-6	rc	890661	11/17/89	3/1/90
95-1-9-a-7	cr	871182	4/4/89	4/22/89
95-1-9-a-8	m	871182	4/4/89	4/22/89

95--(HISTORY) Direct Sellers

95-1-9-a-9	rc	890661	11/17/89	3/1/90
95-1-9-a-10	m	871182	4/4/89	4/22/89
95-1-9-a-11	m	871182	4/4/89	4/22/89
95-1-9-a-12	cr	930843	9/28/93	10/15/93
95-1-9-c	am	890661	11/17/89	3/1/90
95-1-9-d	cr	890661	11/17/89	3/1/90
95-1-9-e	cr	940499	7/12/96	7/31/96
95-2-1	rc	930784	9/28/93	10/15/93
95-2-2	rc	930784	9/28/93	10/15/93
95-2-2-b-6	am	951346	1/23/96	2/9/96
95-2-2-b-9	am	960043	5/14/96	6/1/96
95-2-4-a	am	951346	1/23/96	2/9/96
95-2-8-f	am	901415	12/21/90	1/12/91
95-14	rc	031134	7/27/2004	8/13/2004
95-14-0	am	021062	12/20/2002	1/11/2003
95-14-1-c	am	021062	12/20/2002	1/11/2003
95-14-2	am	021062	12/20/2002	1/11/2003
95-14-3	rc	021062	12/20/2002	1/11/2003
95-14-3-d	rp	040772	11/3/2004	11/20/2004
95-14-3-e	m to 95-14-3-d	040772	11/3/2004	11/20/2004
95-14-3-f	m to 95-14-3-e	040772	11/3/2004	11/20/2004
95-14-3-f-0	m to 95-14-3-f-1	040772	11/3/2004	11/20/2004
95-14-3-f-2	cr	040772	11/3/2004	11/20/2004
95-14-3-g	m to 95-14-3-f	040772	11/3/2004	11/20/2004
95-14-4-a	am	021062	12/20/2002	1/11/2003
95-14-6	am	880524	7/26/88	8/13/88
95-14-7	rc	961523	2/11/97	2/28/97
95-14-7	am	021062	12/20/2002	1/11/2003
95-14-7-b	am	880524	7/26/88	8/13/88
95-14-7-c-1-f	m to 95-14-7-c-1-h	040772	11/3/2004	11/20/2004
95-14-7-c-1-f	cr	040772	11/3/2004	11/20/2004
95-14-7-c-1-g	cr	040772	11/3/2004	11/20/2004
95-14-8-c	am	931991	4/26/94	5/13/94
95-14-9-b	am	021062	12/20/2002	1/11/2003
95-14-11-a	am	021062	12/20/2002	1/11/2003
95-14-11-c-7	am	021062	12/20/2002	1/11/2003
95-14-11-d-0	am	021062	12/20/2002	1/11/2003
95-14-11-d-3	am	021062	12/20/2002	1/11/2003
95-14-11-d-5	m to 95-14-11-d-7	040772	11/3/2004	11/20/2004
95-14-11-d-5	cr	040772	11/3/2004	11/20/2004
95-14-11-d-6	cr	040772	11/3/2004	11/20/2004
95-14-12	am	021062	12/20/2002	1/11/2003
95-14-15	am	970955	11/4/97	11/21/97
95-14-16	am	961908	4/22/97	5/9/97
95-14-16	rc	010476	8/2/2001	8/18/2001
95-14-16-a	am	021062	12/20/2002	1/11/2003
95-15	cr	881266	2/14/89	3/7/89